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Katherine A. Powell, CSR, CRR

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THE CLERK: Calling civil case number C07-2688,

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Skywest Pilots versus Skywest Airlines.

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Please state you're appearances, Counsel.

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16 Q. And if you vote on an issue -- I take it, you need a
17 quorum to vote on issues?

18 A. We need a quorum. That also includes two representatives
19 of the executive board. So two of the three executive board
20 members need to be present for a quorum to be present.

21 Q. So you need two of three executive members and two-thirds
22 of the representatives?

23 A. Of the 19, yeah.

24 Q. And if there's a quorum, you can vote on issues; is that
25 correct?

EISENSTAT - DIRECT EXAMINATION / SPAGAT 18

1 A. Yes.

2 Q. What is the vote you need in order to pass?

3 A. 50 percent. Excuse me. 50 percent on proposals.

4 Two-thirds on bylaws changes.

5 Q. Okay. And the executives, you said there were three
6 executives, correct?

7 A. Yes.

8 Q. What are the executive positions?

9 A. President, vice president and secretary.

10 Q. And you're the secretary?

11 A. I am.

12 Q. And are those offline, meaning these are full-time
13 positions so you don't fly planes to do this work; is that
14 correct?

15 A. We are full-time offline.

16 Q. And how --

17 MR. SPAGAT: Shall I avoid how they are paid?

18 THE COURT: Well, we know you're paid by the company.

19 BY MR. SPAGAT:

20 Q. How is the pay -- how is the amount of pay determined?

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21 A. When Todd Schmidtke and I went offline, we went to our
22 director of flight operations, then was Gary Overbaugh, and we
23 realized that we had to figure out how we were going to be
24 paid. We looked back six months, Todd and I respectfully, and
25 the amount that -- we were doing quite a bit of flying back

EISENSTAT - DIRECT EXAMINATION / SPAGAT 19

1 then. We looked back six months and it came to about 104, 105
2 hours per month is what we were doing in that six-month period,
3 and they agreed to pay us that to be offline.

4 Q. So when you became an offline full-time SAPA executive,
5 did your pay change in any material way from what it had been
6 as a pilot?

7 A. It didn't.

8 Q. Okay. And in your opinion, is -- are you doing a
9 full-time amount of work?

10 A. Yeah. Yes.

11 Q. Would you explain what it is that you do that fills up
12 your time?

13 A. I'm not sure we have that time here. I am in charge of
14 correlating all meetings. There are at least three, four or
15 five meetings per month out of town. I am in charge of
16 minute-taking, minute-keeping, publishing the minute meetings.
17 In charge of all logistics as far as hotels are concerned, crew
18 scheduling for the scheduling of representatives, all though we
19 have PBS now for preassignments.

20 I am in charge of, again, keeping those meetings and
21 publishing. I'm in charge of creating the agendas for these
22 meetings. For some reason by default this has happened in
23 other meetings. For instance, in flight ops meetings that we
24 have and PBS meetings and policy interpretation complaint
25 meetings.

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9 Black's ASAP information.

10 Q. It's not something that you are using?

11 A. No.

12 Q. Okay. SAPA has a website SAPAforums-dot-org; is that
13 correct?

14 A. Yes.

15 Q. Does the company have access to the content of that
16 website?

17 A. No.

18 Q. And are union issues, pro and against, addressed on the
19 SAPA website?

20 A. Primarily.

21 Q. Okay. How many pilots are signed up for
22 SAPAforums-dot-org?

23 A. I believe around 1300.

24 MR. SPAGAT: Okay. No further questions.

25 THE COURT: I have one. Let's say I issued an order
EISENSTAT - DIRECT EXAMINATION / SPAGAT 67

1 saying that the company can't pay for any more for SAPA. Got
2 it? Okay. What would happen?

3 SAPA goes out of existence. Now you tell me what
4 effect that would have, in your view, as to everything that you
5 do within -- everything SAPA does in connection with the
6 operation of the airlines. Now is your chance.

7 THE WITNESS: In my view, this -- this is too time
8 consuming and too big to be doing this on our own time.

9 I have to make a living. So does Jim Black and Mark
10 Nolin. We would go back to line flying, flying airplanes. And
11 there would be no representation at Skywest Airlines.

12 THE COURT: So in your view, whatever services you
13 perform in connection with the operation of SAPA would come to

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14 an end?

15 THE WITNESS: Yes.

16 THE COURT: Anything further?

17 MR. SPAGAT: Nothing further.

18 THE COURT: I mean, I guess the question is, well,

19 one has to ask the question, so what? I think it's

20 self-evident. What you're really saying, if I understand it,

21 is that everything that you have been doing and do on a daily

22 basis in connection with the duties you described, the services

23 that you perform would, at least from your point of view, from

24 what you can see, would come to an end.

25 Now, somebody could pick it up, if somebody were paid

EISENSTAT - DIRECT EXAMINATION / SPAGAT 68

1 for it and paid people to do it. I suppose that could happen.

2 But you don't see that forthcoming. @words @@@.

3 As far as you know, nobody is willing to step up

4 and -- do you know, are there people who are willing to step up

5 at no pay and perform these services?

6 THE WITNESS: I don't know how they would do that and

7 fly the line full-time either. I just don't know how that

8 would be possible.

9 THE COURT: They'd have to have people who are

10 familiar with the operation of the company, have the competence

11 that to the extent that management feels comfortable in

12 discussing any of these issues, some of which are very

13 confidential and competitive, confidential from the personnel

14 point of view, competitive from an industry point of view,

15 those are real issues and they have to be careful of the person

16 that they discuss it with in that there has to be some level of

17 confidence that people have the ability and the integrity to

18 carry on these tasks? That's your view?

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15 hire classes?

16 A. We don't.

17 Q. Could anyone appear and talk to the new hire class without
18 permission from the company?

19 A. I don't think so.

20 Q. But that's something that SAPA is permitted to do without
21 permission?

22 A. Yes.

23 Q. In fact, you do have permission from the company, don't
24 you?

25 THE COURT: I think -- I understand your point. The
EISENSTAT - CROSS EXAMINATION / GINSBURG 87

1 point is that he doesn't have to go each time and say, By the
2 way, are we going to be permitted to address this group? It's
3 just if he wants to address the group, he asks somebody, what
4 time can I come and address the group? They tell him, I guess.

5 BY MR. SPAGAT:

6 Q. And the company allows you to do that?

7 THE COURT: Yeah, I mean, it's not a big deal. This
8 is SAPA. We know. There is their organization. Got that.

9 MS. GINSBURG: Thank you.

10 BY MS. GINSBURG

11 Q. Do you get paid for your time spent on those presentations
12 or your fellow representatives when they appear before the new
13 hire class?

14 A. Jim Black, who is the vice president of SAPA, presents
15 presentation to the new hire classes. He is paid at 104 hours
16 a month to be offline.

17 Q. That includes his time before the new hire class?

18 A. Yes.

19 Q. SAPA distributes SAPA pins at that presentation?

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- 20 A. We do.
- 21 Q. And those are worn on the uniform?
- 22 A. The pilots who choose to do so, yes, they are lapel pins.
- 23 Q. Pilots are permitted to wear SAPA pins, correct?
- 24 A. Yes.
- 25 Q. Now, your testimony was that you have been able to

EISENSTAT - CROSS EXAMINATION / GINSBURG 88

- 1 persuade the company to make some changes to the crew member
2 policy manual that you've discussed various issues with them
3 over time, correct?
- 4 A. Yes.
- 5 Q. The company retains the right to reverse itself at any
6 time, correct?
- 7 A. Yes.
- 8 Q. And you can't enforce that agreement if the company
9 decides to violate it, correct?
- 10 A. We can strongly oppose it, but we can't enforce it.
- 11 Q. And you can't negotiate with the company regarding the
12 company policy manual, can you?
- 13 A. Strongly oppose it but not enforce it.
- 14 Q. Now, you referred to, I believe, the letter of agreement
15 standard -- the crew member policy manual. And if you will
16 turn to Exhibit 1, it's Union Exhibit 1. So it might be in a
17 different binder than the one currently before you.
- 18 A. Okay.
- 19 Q. If you would turn to page 1, which is actually the second
20 page of the document.
- 21 A. Yes.
- 22 Q. Draw your attention to the provision right above the
23 signature lines, the paragraph that delineates the scope of
24 this document. Do you see that?

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- 22 Q. Can you give me an example?
23 A. A binding contract that's legally recognized.
24 Q. So does SAPA have an enforceable contract with Skywest?
25 A. No.

NOLIN - DIRECT EXAMINATION / PRESTEL 120

- 1 MR. SPAGAT: Same objection, Your Honor.
2 THE COURT: Well, these things, I don't think to the
3 extent that they are statements in the record, I understand
4 that. To the extent they are opinions, I'm not sure I need
5 them. After a few minutes of the witness's description of his
6 views, I understand his -- well, the word "biases" in his
7 testimony. I understand where he is coming from. They don't
8 say you have a bias, they say where are you coming from? I
9 understand where he is coming from. So let's get there.
10 BY MS. PRESTEL:
11 Q. As president of SAPA, have you ever had a conversation
12 with Jim Black about his presentations on behalf of SAPA to new
13 hire classes?
14 A. Yes, I have.
15 Q. How long has Captain Black been making those
16 presentations?
17 A. For several years, as far as I know.
18 Q. How long ago did you have this conversation?
19 A. About five-and-a-half or six weeks ago.
20 Q. Can you briefly describe it?
21 A. Yes, I got a report --
22 MR. SPAGAT: Objection. Hearsay.
23 THE COURT: Wait. @words who is this person that's
24 talking?
25 THE WITNESS: I was talking to the vice --

NOLIN - DIRECT EXAMINATION / PRESTEL 121

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1 THE COURT: To the management? You had a
2 conversation with the person who was part of management?

3 MS. LYE: He had a conversation with Jim Black, who
4 is the vice president of SAPA, who is permitted to give these
5 presentations to new hire classes.

6 THE COURT: I see. Well, your view is that that
7 would be -- that would be part of management, that's your view,
8 anyway? I am going to allow it subject to a motion to strike.
9 I will give you an extra page to respond in your brief.

10 Go ahead. Excuse me. What was said.

11 THE WITNESS: I had a report from a pilot saying that
12 Mr. Black had been saying negative and false information about
13 the Airline Pilots Association during a SAPA new hire briefing.
14 I asked him if he had done that, and he indicated that he had
15 said some things that were inappropriate.

16 BY MS. PRESTEL:

17 Q. Things that were inappropriate about ALPA?

18 A. Yes.

19 THE COURT: What did he say he said?

20 THE WITNESS: I didn't ask.

21 THE COURT: Okay. What did you say -- you said, "I
22 heard you said some negative things or inappropriate things
23 about ALPA?"

24 THE WITNESS: I asked him if he had been saying
25 negative things about ALPA. And he said he had been saying

NOLIN - DIRECT EXAMINATION / PRESTEL 122

1 things that were inappropriate, and that he wouldn't -- my
2 point was to get him to stop doing that. Whether or not he is
3 doing that anymore, I don't know.

4 THE COURT: Okay. I understand that was your point.

5 The question is, what's your recollection of this entire

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6 conversation, and have you given it?

7 THE WITNESS: Yes.

8 THE COURT: Do you remember anything else he said or
9 you said on this subject?

10 THE WITNESS: That's it.

11 THE COURT: Okay.

12 BY MS. PRESTEL:

13 Q. Have you ever had any conversation with Mike Eisenstat
14 about why there was an increase from one to three in the number
15 of SAPA officers who are paid full-time?

16 A. Yes, I have.

17 Q. When was that conversation?

18 A. About a year ago.

19 Q. Can you briefly describe the conversation? What was said?

20 MR. QUANDT: Same objection. Hearsay. @check speaker

21 THE COURT: Come in subject to a motion to strike.

22 THE WITNESS: I approached Mike. When I joined SAPA,
23 I thought it was a mistake that the executive board members
24 weren't flying the line. And was talking to Mike about that,
25 he told me -- or he took me aside and said, Let me give you a

NOLIN - DIRECT EXAMINATION / PRESTEL 123

1 little bit about the history of SAPA. Before the '99 union
2 drive, they had one full-time member. And after that union
3 drive, he said that the union drive failed by just a few votes,
4 I guess. And he said that Mr. Brad Holt approached him and
5 said, wow, that was really close. What can we do to prevent
6 that from happening? And that's when Mike told him, I need
7 three full-time guys to keep the union off the property.

8 THE COURT: I'm sorry, what did you say?

9 THE WITNESS: I need three full-time executive --
10 that's who we are now, three full-time SAPA positions to keep
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11 the union off the property.

12 THE COURT: Okay.

13 MS. PRESTEL: I think that's it, Your Honor.

14 THE COURT: Cross?

15 CROSS EXAMINATION

16 BY MR. SPAGAT:

17 Q. Good afternoon, Mr. Nolin.

18 A. Good afternoon.

19 Q. You are an ALPA supporter; is that correct?

20 A. That's correct.

21 Q. And you were when you ran for president of SAPA?

22 A. That's correct.

23 Q. And you were elected president of SAPA, it being known
24 that you were an ALPA supporter?

25 A. That was not public.

NOLIN - CROSS EXAMINATION / SPAGAT 124

1 Q. It's known now; isn't that true?

2 A. It is now, yes, sir.

3 Q. As the SAPA president, even though you are an ALPA
4 supporter, has SkyWest ever tried to remove you?

5 A. No, sir.

6 Q. I thought I heard you start to testify in your
7 conversation with Jim Black, did he tell you that he wouldn't
8 do it again?

9 A. Yes, sir.

10 MR. SPAGAT: Okay. No further questions.

11 THE COURT: Thank you, Captain. You are excused.
12 (Witness excused.)

13 THE COURT: Anything else from the plaintiffs?

14 MS. LYE: No, Your Honor.

15 THE COURT: Okay.